Attorney's Docket No.:	005642.P004	<u>Pa</u>	<u>atent</u>
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## **DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below, next to my name.

I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

DATALESS A	PPLICATIONS	
the specification	on of which	
<u>X</u>	is attached hereto. was filed on	as
<del></del>	United States Application Number or PCT International Application Number and was amended on (MM/DD/YYYY)	
	and was amended on (MM/DD/1111)_	(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment referred to above. I do not know and do not believe that the claimed invention was ever known or used in the United States of America before my invention thereof, or patented or described in any printed publication in any country before my invention thereof or more than one year prior to this application, that the same was not in public use or on sale in the United States of America more than one year prior to this application, and that the invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months (for a utility patent application) or six months (for a design patent application) prior to this application.

I acknowledge the duty to disclose all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d), of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)				Priori <u>Claim</u>	
(Number)	(Country)	(Foreign Fil MM/DD/		Yes	No
(Number)	(Country)	(Foreign Fil MM/DD/		Yes	No
(Number)	(Country)	(Foreign Fil MM/DD/		Yes	No
I hereby claim the benefit ur provisional application(s) list		ites Code, Section	n 119(e) of any	/ United S	states
60/292,839	May 21, 2000		•		
(Application Number)					
(Application Number) (Filing Date – MM/DD/YYYY)					
(Application Numbe	r) (Filing Date – MM	/DD/YYYY)			
I hereby claim the benefit un application(s) listed below a is not disclosed in the prior to of Title 35, United States Co known to me to be material to Section 1.56 which became or PCT international filing da	nd, insofar as the subje United States application Ide, Section 112, I ack Ito patentability as defir available between the	ect matter of each on in the manner   nowledge the duty led in Title 37, Co	n of the claims of provided by the y to disclose all ode of Federal I	of this apper e first para I informati Regulation	olication agraph ion ns,
(Application Number)	(Filing Date – MM/D	D/YYYY) (Sta	tus patented pending,	abandon	ed)
(Application Number)	(Filing Date – MM/D	D/YYYY) (Sta	tus patented pending,	, abandon	 ed)
I hereby appoint the persons part of this document) as my substitution and revocation, and Trademark Office conne	respective patent atto to prosecute this appli	rneys and patent	agents, with fu	ıll power (	of
Send correspondence to		, BLAI	KELY, SOKOL	.OFF, TA	YLOR &
	Name of Attorney or		California 04	100E	all 4
ZAFMAN LLP, 12400 Wilsh telephone calls to <u>John</u> (Nam	P. Ward  e of Attorney or Ager	, (408) 720-8		JUZ5 and	airect
(IVaiii	o or Attorney or Ager	147		•	





I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of Sole/First Inventor Serge loffe	
Inventor's Signature	Date
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Full Name of Fourth/Joint Inventor	
Inventor's Signature	Date
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## **APPENDIX A**

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## APPENDIX B

## Title 37, Code of Federal Regulations, Section 1.56 <u>Duty to Disclose Information Material to Patentability</u>

- (a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:
  - (1) Prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
  - (2) It refutes, or is inconsistent with, a position the applicant takes in:
    - (i) Opposing an argument of unpatentability relied on by the Office, or
    - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
  - (1) Each inventor named in the application;
  - (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.
- (e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

Rev. 03/05/01 (D1)

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